

1 **THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

2 **COMMISSIONERS**

**DOCKETED**

3 JEFF HATCH-MILLER, Chairman  
4 WILLIAM A. MUNDELL  
5 MARC SPITZER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

MAY 05 2005

DOCKETED BY

NR

8 IN THE MATTER OF THE APPLICATION OF  
9 THE ARIZONA DEPARTMENT OF  
10 TRANSPORTATION TO UPGRADE AN  
11 EXISTING CROSSING OF THE ARIZONA AND  
12 CALIFORNIA RAILROAD COMPANY AT  
13 McVAY ROAD IN LA PAZ COUNTY, ARIZONA,  
14 AAR/DOT NO. 025-921-F.

DOCKET NO. RR-02632A-05-0125

DECISION NO. 67811

**OPINION AND ORDER**

10 DATE OF HEARING:

March 17, 2005

11 PLACE OF HEARING:

Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE:

Marc E. Stern

13 APPEARANCES:

14 Ms. Diane Targovnik and Mr. Tim Sabo, Staff  
15 Attorneys, Legal Division, on behalf of the Utilities  
16 Division of the Arizona Corporation Commission.

15 **BY THE COMMISSION:**

16 On February 28, 2005, the Arizona Department of Transportation ("ADOT") submitted to the  
17 Arizona Corporation Commission ("Commission") a request for an Opinion and Order for the  
18 approval of an agreement between ADOT and the Arizona and California Railroad Company  
19 ("Railroad") to upgrade the Railroad's crossing at McVay Road in La Paz County, Arizona, at  
20 AAR/DOT No. 025-921-F ("Application").

21 On March 3, 2005, by Procedural Order, the Application was set for a hearing and ADOT was  
22 ordered to notify any interested party of the Application and the hearing.

23 On March 10, 2005, ADOT certified that notice had been provided pursuant to the terms of  
24 the Procedural Order.

25 On March 17, 2005, a full public hearing was held before a duly authorized Administrative  
26 Law Judge of the Commission at its offices in Phoenix, Arizona. The Commission's Railroad Safety  
27 Section ("Staff") was present with counsel. At the conclusion of the hearing, the matter was taken  
28 under advisement pending submission of a recommended Opinion and Order to the Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

### **FINDINGS OF FACT**

1. On February 28, 2005, ADOT filed an Application in which it requested an Opinion and Order from the Commission approving an agreement between ADOT and the Railroad to upgrade a crossing by replacing existing crossbucks with new LED automatic warning devices with automatic gate arms at McVay Road in La Paz County, Arizona at AAR/DOT No. 025-921-F.

2. On March 10, 2005, ADOT filed certification that it had provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on March 17, 2005.

4. The Application provides for the Railroad to install new LED flashing lights with automatic gates at the crossing.

5. Staff testified that the cost apportionment for the installation of the crossing upgrade as provided in the Application was proper.

6. Staff recommended that the Application be approved.

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. Installation of the crossing upgrade is necessary for the public's convenience and safety.

4. Pursuant to A.R.S. §§ 40-336 and 40-337, the Application should be approved as recommended by Staff.

5. After installation of the crossing, the Railroad should maintain the crossing in accordance with A.A.C. R14-5-104.

ORDER

IT IS THEREFORE ORDERED that the Arizona Department of Transportation's Application is hereby approved.

IT IS FURTHER ORDERED that the Arizona and California Railroad Company shall complete the crossing upgrade as described in the Application within fifteen months from the effective date of this Decision.

IT IS FURTHER ORDERED that the Arizona and California Railroad Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the crossing upgrade, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that upon completion of the crossing upgrade, the Arizona and California Railroad Company shall maintain the crossing in compliance with the A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

*Jeffrey H. Hatch-Miller*  
CHAIRMAN

*Will M. Hall*  
COMMISSIONER

*Ken*  
COMMISSIONER

*Linda S. Peterson*  
COMMISSIONER

*R. W. G.*  
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 5<sup>th</sup> day of May, 2005.

*Brian C. McNeil*  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

MES:mlj

1 SERVICE LIST FOR: ARIZONA AND CALIFORNIA RAILROAD  
2 COMPANY

3 DOCKET NO. RR-02632A-05-0125

4 John Syers  
5 ADOT-Utility & Railroad  
6 205 S. 17<sup>th</sup> Avenue  
Phoenix, Arizona 85007-3213

7 Tanya Cecil, GM  
8 Arizona and California Railroad Company  
P.O. Box 3340  
Parker, AZ 85344

9 Christopher Kempley, Chief Counsel  
10 Legal Division  
ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
Phoenix, Arizona 85007

12 Don Thompson  
13 Railroad Safety Section  
ARIZONA CORPORATION COMMISSION  
14 1200 West Washington Street  
Phoenix, Arizona 85007

15

16

17

18

19

20

21

22

23

24

25

26

27

28